

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Jacques Etkowicz on March 4, 2010.
3. The application has been amended as follows:

In the claims:

Claim 1 (currently amended) A device for detecting one or more analytes in a sample, the device comprising:

one or more reaction chambers adapted to receive the sample,

optionally, one or more reagent application channels,

one or more capillary systems [~~following onto~~] connected to the reaction chambers or the reagent application channels, and

one or more negative vessels [~~following onto~~] connected to the capillary system or the capillary systems,

wherein each of the capillary systems comprises capillary planes of diminishing cross-section which are disposed one below the other and, each capillary system comprises at least one capillary.

Claim 2 (canceled)

Claim 3 (canceled)

4. (Currently Amended) The device according to ~~claim 1~~, wherein in each capillary plane a plurality of capillaries are arranged in an adjoining or bundled fashion.

Deleted: claim 1 or 2

5. (Previously Presented) The device according to claim 4, wherein adjoining or bundled capillaries of a capillary plane additionally comprise connecting webs.

6. (Previously Presented) The device according to claim 4, wherein adjoining or bundled capillaries of a capillary plane have the same inner cross-sectional area.

7. (Currently Amended) The device according to ~~claim 1~~, wherein, the more distant the inner cross-sectional area of the capillary planes is disposed from the reaction chamber, the smaller it becomes.

Deleted: claim 1 or 2

8. (Currently Amended) The device according to ~~claim 1~~, wherein the capillary planes of the capillary system are connected by chambers, whose inner cross-sectional area is preferably the same as that of the largest capillary.

Deleted: claim 1 or 2

9. (Currently Amended) The device according to ~~claim 1~~, wherein the reagent application channel has 1.2 times the volume compared with the capillary or the capillary system plus the negative vessel.

Deleted: claim 1 or 2

10. (Currently Amended) The device according to ~~claim 1~~, wherein the negative vessel has a larger volume than ~~a~~ volume of compacted sediment of the cells or particles used.

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11. (Currently Amended) The device according to ~~claim 1~~, wherein the negative vessel has a shape, which tapers towards the bottom.

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12. (Currently Amended) The device according to ~~claim 1~~, ~~further comprising~~ one or more ventilation channels.

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13. (Currently Amended) The device according to ~~claim 1~~, wherein the capillary system forms an integral component of the carrier element.

Deleted: claim 1 or 2

Art Unit: 1641

14. (Currently Amended) A method for detecting one or more analytes in a sample fluid by the visualization of agglutination, the method comprising the steps of:

- a) contacting the sample with a reagent to form a reaction mixture,
- b) exposing the reaction mixture to the effects of gravitation or magnetism, and passing the reaction mixture through the capillary system of the device according to claim 1, followed by a negative vessel of the device according to claim 1,  
and
- c) determining the reaction between the analyte and the reagent.

15. (Previously Presented) The method according to claim 14, wherein the reaction mixture is brought into contact with a further reagent during process step b).

16. (Previously Presented) The method according to claim 14, wherein the order of the individual process steps consisting of a) and b) are reversed, in particular when the sample fluid is brought into contact with a reagent only during the action of gravitation or magnetism.

17. (Previously Presented) The method according to any one of claims 14 to 16, wherein the sample fluid and/or the reagent include one or more particles.

18. (Previously Presented) The method according to any one of claims 14 to 16, wherein the reaction is determined optically.

19. (Currently Amended) The method according to claim 17, wherein the particles have a natural color or are colored.

Deleted: any one of claims 14 to 16

20. (Currently Amended) The method according to claim 17, wherein the particles are color-, radio-, fluorescent- or enzyme-coded.

Deleted: any one of claims 14 to 16

21. (Currently Amended) The method according to claim 17, wherein the particles include erythrocytes and/or thrombocytes and/or leucocytes or parts thereof.

Deleted: any one of claims 14 to 16

22. (Currently Amended) The method according to claim 17, wherein the particles are pre-treated with proteolytic enzymes in order to enhance the reaction.

Deleted: any one of claims 14 to 16

23. (Currently Amended) The method according to claim 17, wherein the reagent comprises antibodies selected from the group consisting of peptides, proteins, carbohydrates, lipids, nucleic acids, viruses, bacteria, parasites, human cells, animal cells plant cells, and parts thereof bound to the particles.

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24. (Currently Amended) The method according to claim 17, wherein antigens or other ligands are bound to the particles.

Deleted: any one of claims 14 to 16

25. (Currently Amended) The method according to claim 17, wherein the particles comprise polystyrene, polybromostyrene, gelatine, melamine, polymerised agarose or polymethyl methacrylate.

Deleted: any one of claims 14 to 16

26. (Currently Amended) The method according to claim 17, wherein the particles are magnetic or paramagnetic.

Deleted: any one of claims 14 to 16

27. (Previously Presented) The method according to any one of claims 14 to 16, wherein the sample mixture is exposed to gravitation by being subjected to centrifuging.

28. (Previously Presented) The method according to any one of claims 14 to 16, wherein the sample mixture is exposed to magnetism.

29. (Previously Presented) The method according to any one of claims 14 to 16, wherein the sample fluid comprises human, animal or plant material.

30. (Previously Presented) The method according to any one of claims 14 to 16, wherein the reagent comprises antibodies, test cells, synthetic particles, buffers or booster solutions.

31. (Previously Presented) The method according to any one of claims 14 to 16, wherein glycerin or other molecules are added to the reagent in order to increase the specific density of the solution.

Art Unit: 1641

32. (Currently Amended) The method according to any one of ~~claims 14 to 16 wherein the~~  
~~analyte is,~~ at least one of ~~;~~ blood groups, antibodies against blood group characteristics,  
compatibilities between stored blood and recipients, thrombocyte characteristics and antibodies  
directed against thrombocytes, leucocyte characteristics and antibodies directed against  
leucocytes, haemagglutinating viruses, antibodies against proteins, viruses, bacteria, parasites,  
viral or bacterial or parasitic or other antigens, auto-antibodies, and antibodies directed against  
allergens.

**Deleted:** claim**Deleted:** in which**Deleted:** the following is determined or  
detected

33. (Previously Presented) The method according to claim 24 in which the other ligands are  
selected from the group consisting of peptides, proteins, carbohydrates, lipids, nucleic acids,  
viruses, bacteria, parasites, human cells, animal cells, plant cells, allergens, and parts thereof.

### ***Reasons for Allowance***

4. The following is an examiner's statement of reasons for allowance: the instant claims define  
over the prior art of record because the prior art of record does not teach or make obvious a  
device comprising one or more reaction chambers adapted to receive, one or more capillary  
systems connected to the reaction chambers, and one or more negative vessels connected to the  
capillary system, where each of the capillary systems comprises capillary planes of diminishing  
cross-section which are disposed one below the other and, each capillary system comprises at  
least one capillary.

Any comments considered necessary by applicant must be submitted no later than the  
payment of the issue fee and, to avoid processing delays, should preferably accompany the issue  
fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for  
Allowance."

Art Unit: 1641

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao-Thuy L. Nguyen whose telephone number is (571) 272-0824. The examiner can normally be reached on Monday -- Thursday from 9:00 a.m. - 3:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Shibuya can be reached on (571) 272-0806. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bao-Thuy L. Nguyen/  
Primary Examiner, Art Unit 1641  
March 4, 2010